



REPORT OF THE ADJUDICATOR

Complaint reference number:	26211
WASPA member(s):	Froggie / Crazy4Media Mobile Marketing Advertising & Billing SL (IP); Mira Networks (SP)
Membership number(s):	1194; 0011
Complainant:	WASPA Media Monitor
Type of complaint:	Subscription service
Date complaint was lodged:	26 March 2015
Date of the alleged offence:	26 March 2015
Relevant version of the Code:	13.6
Clauses considered:	4.2; 4.4; 4.8; 5.1; 5.4; 5.5
Related cases considered:	24357

Complaint

1. The WASPA Media Monitor conducted a test on the service provided at www.Payripo.com, which describes itself as a *"new innovating and internet job site"*.
2. Based on the instructions given to users on the site, a user registers on the site to perform certain tasks in exchange for payment of various amounts.
3. The Monitor registered and completed the "Job Task" on 26 March 2015. The task given was to promote an affiliate link provided for which the Monitor would be paid 10\$ per click.
4. When it came time to activate the payment withdrawal, the Monitor was requested to complete a survey by clicking on a new link. When clicking on the link provided the Monitor was taken to a landing page promoting an adult subscription service offered by the IP and charged at R7 per day.

5. The Monitor states in their complaint that the original "Job internet site" is not a real "Job internet site" and that no moneys ever get paid to users performing certain duties.
 6. The Monitor alleges that the site is incredibly misleading and is used merely to hook users into a mobile content subscription service.
 7. The complaint was initially submitted to an emergency panel. However after remedial steps were taken by the IP and SP, the emergency panel was not convened and the complaint was referred to the formal adjudication process.
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IP's response

8. The IP stated in its response to the complaint that:

1. All subscriptions have been stopped. We are creating a detailed report with the technical team to refund all the users affected by the Payripo.com promotion.

2. All marketing pages relating to Froggie/Crazy4media deriving from the Payripo.com site have been removed with immediate effect and we have informed the Advertiser Network in question of the fraudulent activities of their publisher Payripo.com.

3. All mobile numbers will be removed from our databases and will NOT be marketed to in future.

As a WASPA member and assuming our responsibilities as such, we are fulfilling the suggested actions mentioned by the media monitors report.

We would like to make clear that Froggie / Crazy4media :

1. Contracted the services from an Advertiser Network to promote our mobile content services using our landing pages.

2. The Advertiser Network then released our landing pages and promotional material out to their publishers and affiliate websites.

3. The Payripo.com website and its alleged service offering have nothing to do with Froggie/C4M, nor had we approved its use to drive conversions for our mobile content services.

4. Despite our revision and previous background checks of the Advertiser Networks and their promotions, it is impossible to supervise all the pages and websites that they work with.

5. It should also be noted that many of the Advertiser Networks are labeled as 'Blind' networks as they do not disclose their partners to protect their business interests.

6. This doesn't mean to say that we want to avoid our responsibility as a Waspa member. Due to the difficulty to supervise Ad Network partners and their websites, we insist on a series of clauses within the agreement with the Ad Network to act responsible in such cases of possible fraudulent publishers.

In conclusion to the aforementioned statements we have acted with immediate effect as requested in the media monitor report and as soon as technically possible we will refund all affected users.

Sections of the Code considered

9. The following sections of the WASPA Code were considered:
- 9.1 Section 4.2 - Members must at all times conduct themselves in a professional manner in their dealings with the public, customers, other service providers and WASPA.
 - 9.2 Section 4.4 - Members must respect the intellectual property rights of their clients and other parties and must not knowingly infringe such rights.
 - 9.3 Section 4.8 - Members must not provide any services or promotional material that:
 - a. results in any unreasonable invasion of privacy;
 - b. induces an unacceptable sense of fear or anxiety;
 - c. debases, degrade or demeans.
 - 9.4 Section 5.1- Members must not offer or promise services that they are unable to provide.
 - 9.5 Section 5.4 - Members must have honest and fair dealings with their customers.
 - 9.6 Section 5.5 - Members must not knowingly disseminate information that is false or deceptive, or that is likely to mislead by inaccuracy, ambiguity, exaggeration or omission.

Decision

- 9.7 From the information provided by the Monitor, it is evident that the use of the website www.payripo.com to promote the IP's adult subscription service is false and deceptive, and is blatantly misleading (if not fraudulent).

- 9.8 There is no doubt that there has been a contravention of sections 4.2, 5.4 and 5.5 of the WASPA Code.
- 9.9 The IP has stated in its response, as has been the case in a number of other complaints of this nature which have been submitted to adjudication, that it uses the services of Advertising Networks to promote its subscription services.
- 9.10 These Advertising Networks, in turn, use the services of various publishers and affiliates. The IP alleges further that the identities of these third party publishers and affiliates are not disclosed to it by the Advertising Networks it contracts with and therefore it is unable to supervise same.
- 9.11 However, the IP does confirm that it insists on the inclusion of a *“series of clauses within the agreements it has with its Advertising Networks to act responsibly in such cases of possible fraudulent publishers”*.
- 9.12 It therefore follows that the IP is the only party that is well-placed to police against these types of deceptive business practices and can do so through the enforcement of the contractual obligations it has imposed on the Advertising Networks it contracts with.
- 9.13 Based on the foregoing, I am satisfied that the IP must be held responsible for the contraventions of the Code and this complaint is accordingly upheld.
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Sanction

10. The extent of the deception and the fact that the services promoted are of an adult nature have been taken into account as aggravating factors when considering an appropriate sanction.
11. The fact that the IP responded immediately to the complaint and took the necessary remedial steps has been taken into account as a mitigating factor.
12. The IP also has had no previous complaints upheld against it.
13. Therefore, an appropriate sanction in the circumstances is payment of a fine of R45 000.00 by the IP.
14. If the IP does have the necessary contractual provisions in place in its agreements with the Advertising Network, it should be in a position to claim its loss in this regard from the Advertising Network.